

Sclafani, Michael P

From: Nicholas Lazos [nlazos@slvlaw.com]
Sent: Monday, July 12, 2004 5:41 PM
To: Appeals
Subject: Docket No. 04-05 WC Freudenburg-NOK General Partnership Appeal
Follow Up Flag: Follow up
Due By: Tuesday, July 13, 2004 2:00 PM
Flag Status: Flagged

Mr. Sclafani: I have received your phone message of today and have prepared the attached Motion to Extend Stay. I have spoken with Jim Gallagher and he has advised me that the title materials we have provided have been sent to the Attorney General's office for review. Apparently they are to determine if the State accepted the conveyance made in 12/22/64 of water rights including the transfer of title to the Upper IPC Dam at issue. The title search makes it clear that the interest was conveyed to the State.

I assume that the AG's office will need some additional time to make its analysis. I also assume Jim will confirm the need for additional time. Please let me know if you need anything further or whether I need to file the Motion to Extend the Stay on Tuesday.

Nick Lazos

Nicholas J. Lazos, Esq.
Stebbins, Lazos & Van Der Beken P.A.
Suite 301
66 Hanover Street
Manchester, NH 03101
(603) 627-3700
Fax = (603) 641-8900
nlazos@slvlaw.com

7/13/2004

July 13, 2004

NH Water Council
C/O Michael Sclafani, Appeals Clerk
29 Hazen Drive
PO Box 95
Concord, NH 03302-0095

**RE: Notice of Appeal of Administrative Order No. WD 04-001 filed herewith
Docket #: 04-05WC**

Motion for Extend Stay

Ladies and Gentlemen:

Freudenberg-NOK General Partnership through its attorneys, Stebbins, Lazos & Van Der Beken, PA, has filed a Notice of Appeal from the above referenced Administrative Order with the New Hampshire Water Council.

On behalf of Freudenberg NOK , we request that the Council extend the previously granted stay of action on the Notice of Appeal because of the following:

A title search of the title to the Upper IPC Dam #031.03 which determined that title transferred to the State of New Hampshire by action at law pursuant to the terms of two (2) Quitclaim Deeds dated December 22, 1964 from (i) Public Service Company of New Hampshire to International Packings Corporation recorded at Book 1013, Page 44 of the Grafton County Registry of Deeds, and from (ii) Public Service Company of New Hampshire to The State of New Hampshire recorded at Book 1012, Page 544 of said Registry was delivered to the Department of Environment Services, Water Division and the DES Legal Unit on March 16, 2004 ("Title Search").

Freudenberg NOK believes that as a result of its discontinuance of electricity generation after April 2002 that, effective 12 months from such discontinuance (i.e., after April 2003), title transferred to the State of New Hampshire.

Freudenberg NOK and the Department of Environmental Services, Water Division, have agreed to exchange information for purposes of confirming legal title in the Upper IPC

Dame #031.03. Such a determination, if it confirms title is in the State of New Hampshire, would render the Administrative Order moot and unnecessary.

James Gallagher, Jr., Chief Water Resource Engineer has advised the undersigned that Mark Harbaugh, Esquire is no longer employed at the DES Legal Unit and that the Title Search and other materials have been forwarded to the Attorney General's Office for review and that the decision has not made by the Water Division concerning the Title Search and title status of the Upper IPC Dam.

Therefore, we respectfully request that the Council stay its consideration of the Notice of Appeal for a period of sixty (60) days or until receipt of an agreed title determination by Freudenberg NOK and the Water Division.

Sincerely,
Freudenberg-NOK General Partnership
By its Attorneys
Stebbins, Lazos & Van Der Beken, PA

By: _____
Nicholas J. Lazos
66 Hanover Street, Suite #301
Manchester, NH 03101
603-627-3700

CC: DES Legal Unit
James Gallagher, Jr. PE
Chief Water Resource Engineer
Robert Evans, Esquire

Certificate of Service

I hereby Certify that I a copy of the foregoing Motion for Stay was send this 13th day of July, 2004 first class mail, postage prepaid to and James Gallagher, Jr. PE and to the DES Legal Unit.

Nicholas J. Lazos